

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 194.136

inspection in the same manner as prescribed for a special tax stamp in § 194.131.

[T.D. 7130, 36 FR 12852, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19335, May 22, 1987]

§ 194.133 Seizure by State authorities.

Where a stamp designated "Retail Dealer in Liquors" is seized by State authorities because it does not conform to the dealer's local license or permit (wine, or wine and beer), the regional director (compliance) will, on request, issue a "Certificate in Lieu of Lost or Destroyed Special Tax Stamp" to show that the dealer has paid special tax as a "Retail Dealer in Wine" or "Retail Dealer in Wines and Beer," as the case may require.

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3665, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19335, May 22, 1987]

CORRECTION OF ERRORS ON SPECIAL TAX STAMPS

§ 194.134 Errors disclosed by taxpayers.

On receipt of a special tax stamp, the dealer will examine it to insure that the name and address are correctly stated; if not, the taxpayer will return the stamp to the regional director (compliance) who issued the stamp with a statement showing the nature of the error and the correct name or address. The regional director (compliance), on receipt of such stamp and statement, will compare the data on the stamp with that of the Form 5630.5 in his files, correct the error if made in his office, and return the stamp to the taxpayer. However, if the error was in the taxpayer's preparation of the Form 5630.5, the regional director (compliance) will require such taxpayer to file a new Form 5630.5, designated "Amended Return," setting forth the taxpayer's correct name and address, and a statement explaining the error on the original Form 5630.5. On receipt of the amended Form 5630.5 and a satisfactory explanation of the error, the regional director (compliance) will

make the proper correction on the stamp and return it to the taxpayer.

[T.D. 7008, 34 FR 3665, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19335, May 22, 1987; T.D. ATF-344, 58 FR 40355, July 28, 1993]

§ 194.135 Errors discovered on inspection.

When an ATF officer discovers a material error on a special tax stamp in the name, ownership, or address of the dealer, he will secure from the dealer a new Form 5630.5, designated "Amended Return," showing correctly all of the information required in § 194.106 and, in the body of the form or in an attachment thereto, a statement of the reason for requesting correction of the stamp. On receipt of the amended return and an acceptable explanation for the error, the officer will make the proper correction on the stamp and return it to the taxpayer. However, if the error found by the ATF officer is on a special tax stamp obtained pursuant to a return on Form 5630.5 filed under the provisions of § 194.106(c), he shall instruct the taxpayer to return the stamp, with a statement showing the nature of the error and the correct data, to the dealer's principal office as provided in § 194.121a.

[T.D. 7110, 36 FR 8035, Apr. 29, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19335, May 22, 1987]

STAMPS FOR INCORRECT PERIOD OR INCORRECT LIABILITY

§ 194.136 General.

Where a dealer through error has filed a return and paid special tax for an incorrect period of liability or incorrect class of business, he shall prepare a correct Form 5630.5 for each taxable year involved, designating it as an "Amended Return," and submit the amended return, or returns, with remittance for the total tax and additions to the tax (delinquency penalties and interest) incurred, to ATF in accordance with the instructions on the Form 5630.5 or, if the error is discovered by an ATF officer, to such officer: *Provided*, That, subject to the limitations imposed by 26 U.S.C. 6511, the tax

§ 194.137

(including additions thereto) paid for the incorrect period of liability or incorrect class of business may be allowed as a credit against the correct tax (including any additions thereto) as provided in §194.137 or §194.139 on surrender of the incorrect stamp or stamps with the amended return or returns noted to show that credit is requested. Tax (including additions thereto) paid for a stamp for an incorrect period of liability or incorrect class of business which is not credited as provided in §194.137 or §194.139, including any creditable tax and additions thereto in excess of the correct tax (including additions thereto), may be refunded pursuant to the provisions of subpart M of this part where the dealer has filed a correct return on Form 5630.5 with remittance for the correct amount of tax (including any additions thereto). A new stamp will be issued only in respect of a current period of liability.

(68A Stat. 732; 26 U.S.C. 6011)

[T.D. 7008, 34 FR 3666, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55844, Sept. 28, 1979; T.D. ATF-251, 52 FR 19335, May 22, 1987]

§ 194.137 Credit by an ATF officer.

Where the ATF officer discovers that tax was paid for an incorrect class of business for a correct period of liability and examination of the incorrect stamp discloses that no additions to the tax were collected, he may, where the correct tax (including any additions thereto) exceeds the incorrect tax paid, credit the tax paid against such correct tax on receipt by him of an amended Form 5630.5, as provided in §194.136, remittance of the difference between the tax paid and the correct tax plus any additions thereto, and the incorrect stamp. The regional director (compliance) will issue a correct stamp if the additional tax collected is for a current year.

(68A Stat. 791, 808; 26 U.S.C. 6402, 6511)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3665, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19335, May 22, 1987]

27 CFR Ch. I (4-1-03 Edition)

§ 194.138 Receipt for taxes.

An ATF officer will issue a receipt to a dealer if cash is received as a remittance in payment of special tax (including penalties and interest, if any), or for any type of remittance received if the dealer requests a receipt.

[T.D. ATF-21, 40 FR 56887, Dec. 5, 1975]

§ 194.139 Credit for incorrect stamp.

The regional director (compliance) may credit the tax (including additions thereto) paid for an incorrect stamp if the taxpayer has filed an amended return on Form 5630.5, as provided in §194.136, and has, with his amended return, surrendered the incorrect stamp for credit and submitted a remittance for the difference between the incorrect tax and the correct tax. Where the tax (and additions thereto) paid for the incorrect stamp surrendered exceeds the amount due, the regional director (compliance) shall advise the dealer to file claim for refund of such excess on ATF Form 2635 (5620.8). The applicable provisions of subpart M of this part shall govern claims for refund.

(68A Stat. 791, 808; 26 U.S.C. 6402, 6511)

[T.D. 7008, 34 FR 3666, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15 1975, and amended by T.D. ATF-251, 52 FR 19335, May 22, 1987]

Subpart J—Change of Location

§ 194.151 Amended return, Form 5630.5; endorsement on stamp.

(a) *General.* A dealer who, during the taxable period for which special tax was paid, removes the business to a place other than that specified on the original special tax return on Form 5630.5, and stated on the special tax stamp, shall, within 30 days from the date the dealer begins to carry on such business at the new location, register the change with ATF by filing a new return on Form 5630.5, designated "Amended Return", setting forth the time when and the place to which such removal was made, and shall surrender the special tax stamp with the Form 5630.5 for endorsement of the change in location: *Provided*, That a dealer, whose original return on ATF Form 5630.5 covered only one location, may deliver the amended return and the stamp at